THE HONOURABLE SMT JUSTICE T. MEENA KUMARI
AND
THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No.9057 of 2007

J U D G M E N T :
(Per T. Meena Kumari, J)

The Writ Petition is filed by one Katragadda Vineetha seeking a writ of habeas corpus directing the respondents to produce before the Court one Katragadda Naga Malaleswara Rao @ Babu S/o late Kondaiah, aged 52 years, Electricity Colony, Labbipet, Vijayawada, who is said to be presently detained in Central Prison, Rajahmundry, East Godavari District and direct his release forthwith.

The case of the petitioner is that she is the wife of Katragadda Naga Melleswara Rao, who is kept under detention in Central Prison, Rajahmundry, East Godavari District pursuant to the detention order passed by the 1st respondent. The detenu was served with the grounds of detention after he was detained in the prison and the grounds of detention reveal that to prevent the detenu from acting in a manner prejudicial to the maintenance of public order and the detenu is a goonda and has been indulgng in violent activities, the detention order was passed. The grievance of the petitioner is that though the detenu has not committed any offence and he is not involved in any activities which attract the provisions of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short, 'the Act'), the 1st respondent has illegally passed the detention order dated 30.3.2007 alleging that the detenu was involved in the activities affecting the maintenance of public

order.

The 1st respondent filed a counter affidavit denying the allegations levelled in the Writ Petition. It is stated in the counter affidavit that upon perusal of the record placed before him the 1st respondent is satisfied and in exercise of the powers available under sub-section (2) of Section 3 of Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short, 'the Act'), the order of detention was passed.

Heard both sides.

As can be seen from the order of detention, the 1st respondent has alleged as many as 12 incidents against the detenu out of which as per the contention of the learned counsel for the petitioner, the cases in incident Nos. 2 to 9, in which the detenu was charged are acquitted of the charges levelled against him.

Now the left over incidents are incident Nos. 1,10,11,12. With regard to incident No.1, the incident was occurred on 12.8.2006 and a case in Crime No.193 of 2006 under Sections 302,307, 120(b) read with Section 34 of Indian Penal Code and Sections 25 and 27 of Arms Act of S.R.Pet P.S. was registered and the detention order was passed nearly after 7 months after the last incident. There was no compelling reasons for the detaining authority to pass the order of detention. In respect of this incident, the detenu was arrested on 22.10.2006 and he was in jail till 3.2.2007, when he was released on conditional bail by this Court, he was directed to stay at Hyderabad and attend before the Central Crime Station on every day and the said condition was also relaxed on 6.3.2007. Hence, the petitioner prayed that there was no prejudicial activity which competent the detaining authority to pass the detention order.

With regard to the incident Nos. 10, 11 and 12 in Crime No.106 of 2006 of P.S. Suryaraopet, Crime No.49 of 2007 of Suryaraopet P.S. and

Crime No..111 of 2007 of Krishna Lanka P.S., they were registered under Section 107 of Cr.P.C., and the petitioner submits that the said offences do not fall under Chapters XVI or XVII or XXII of Criminal Procedure Code and therefore, the petitioner prayed that the said incidents are irrelevant and the detention order is liable to be set aside.

In most of the offences, the offences alleged are Section 107 of Criminal Procedure Code in Crime No.106 of 2006, Crime No. 49 of 2007 and Crime No.111 of 2007, it is the contention of the learned counsel for the petitioner that the said offences do not fall under the Chapters XVI or XVII or XXII of Criminal Procedure Code to take into consideration the definition of "Goonda".

In view of the fact that the grounds No. 10 to 12 which were relied on by the respondents to pass detention order does not fall under the definition of Chapters XVI or XVII or XXII of Criminal Procedure Code, the detention order passed by the respondents is liable to be set aside. Under these circumstances, the detention order is set aside and the Writ Petition is allowed.

In the result, the Writ Petition is allowed and the detention order passed by the 1st respondent dated 30.3.2007 in Rc.No. 27/C.P./Camp/07 as confirmed by the 2nd respondent dated 4.4.2007 in G.O.Rt.No. 1844 is hereby quashed and the detenue namely Sri Katreagadda Naga Malleswara Rao @ Babu s/o late Kondaiah, who is now detained in Central Prison, Rajahmundry, East Godavari District shall be set at liberty forthwith, if he is not required in any other case.

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T. MEENA KUMARI, J

G. CHANDRAIAH, J

1.5.2007

CHV